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	Telephone: (213) 897-6375
6	Facsimile: (213) 897-2804 Attorneys for Complainant
7	BEFORE THE
8	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Statement of Issues Case No. 2013-272
11	Against:
12	TSHUMDA LAMA
13	STATEMENT OF ISSUES
14	Applicant for Registered Nurse License
15	Respondent.
16	
17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20	her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
21	Department of Consumer Affairs.
22	2. On or about December 5, 2011, Tshumda Lama (Respondent) submitted an
23	application for licensure by examination to the Board. On or about November 22, 2011,
24	Tshumda Lama certified under penalty of perjury to the truthfulness of all statements, answers,
25	and representations in the application. The Board denied the application on May 14, 2012.
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STATEMENT OF ISSUES

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JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.
 - 5. Section 480 of the Code states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct,"

NCSBN/NCLEX

7. The National Council of State Boards of Nursing (NCSBN) develops and administers the NCLEX-RN examinations on behalf of the nursing boards in the 50 states, the District of Columbia, and four U.S. territories. Every registered nurse must pass the NCLEX-RN examination before s/he can be licensed to practice.

- 8. The NCLEX-RN Examination Candidate Rules Checklist states the following: "Cell/mobile/smart phones, pagers or any electronic devices may not be accessed at all during your examination appointment (including breaks.)"
- 9. The NCLEX-RN Candidate Bulletin lists as grounds for dismissal or cancellation of results the following:

"Using any prohibited aids. Prohibited aids are any devices or materials that will be helpful in taking the NCLEX examination. Examples of aids that are prohibited are electronic devices (i.e. cell/mobile/smart phones, PDAs, hand held computers, etc.), hand held calculators, conversion tables, dictionaries, etc."

10. Before the commencement of an NCLEX-RN examination, each candidate must review the above rules and affix his/her digital signature, indicating that s/he agrees to the terms.

MARCH 10, 2012 NCLEX-RN EXAMINATION

- 11. On or about March 10, 2012, Respondent applied and took the NCLEX-RN examination at the Pearson Professional Center in San Jose, California. During the administration of the examination, Respondent was observed accessing her cell phone while on a break.
- 12. On or about March 15, 2012, NCSBN sent a letter to Respondent advising her that she had violated the examination rules, and its intention to cancel the results of her examination and to notify the Board.
 - 13. On or about May 14, 2012, the Board denied Respondent's application.
- 14. On or about July 11, 2012, Respondent, through her legal counsel, appealed the Board's decision. Respondent admitted that she texted her husband while on break from the March 10, 2012 NCLEX-RN examination.

CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

15. Respondent's application is subject to denial under Code section 480, subdivision (a)(3), in that she had committed acts if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license under Code section 2761,

	
	-1 1: i.i. (c) Complete and incomparator all the ellegations contained in management
. 1	subdivision (a). Complainant refers to and incorporates all the allegations contained in pargraph
2	7-11 and 14, as though set forth fully.
3	<u>PRAYER</u>
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5	and that following the hearing, the Board of Registered Nursing issue a decision:
6	1. Denying the application of Tshumda Lama for a Applicant for Registered Nurse
7	License;
8	2. Taking such other and further action as deemed necessary and proper.
9	DATED: Ochber 11 2012 Louise L. Bailey
10	LOUISE R. BAILEY, M.ED., RN
11	Executive Officer Board of Registered Nursing
12	Department of Consumer Affairs State of California
13	Complainant
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